

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JULIAN A. MILLER,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 04-1367-KAJ
)	
STANLEY TAYLOR, THOMAS)	
CARROLL, DR. ALIE, and)	
RN IHOMA,)	
)	
Defendants.)	

ORDER

WHEREAS, the plaintiff, Julian Miller, SBI #393626 is a prisoner incarcerated at the Delaware Correctional Center in Smyrna, Delaware, and plaintiff filed a complaint under 42 U.S.C. § 1983, along with an application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915;

WHEREAS, on January 19, 2005, this court issued a service order requiring the United States Marshal ("USM") to serve the complaint (D.I. 2), the memorandum in support of the complaint (D.I. 3), the amended complaint (D.I. 8) and the affidavit (D.I. 11) upon receipt of USM 285 forms for each defendant (D.I. 12);

WHEREAS, on March 7, 2005, the plaintiff filed a letter which the Court construes as a Motion for Leave to Amend the Complaint, requesting leave to replace plaintiff's hand written complaint and supporting documents with one type written amended

complaint (D.I. 13);

WHEREAS, the plaintiff included the typewritten amended complaint with his motion (D.I. 15);

THEREFORE, at Wilmington this 28th day of April, 2005, IT IS ORDERED that:

1. The plaintiff's letter Motion for Leave Amend the Complaint (D.I. 14) is GRANTED.

2. The Clerk of the Court shall cause a copy of this order to be mailed to the plaintiff.

3. This order shall supercede the court's order dated January 19, 2005.

4. Pursuant to Fed. R. Civ. P. 4(c)(2) and (d)(2), the plaintiff has completed and returned to the Clerk of the Court an **original** "U.S. Marshal-285" form for **each** defendant, as well as for **the Attorney General of the State of Delaware**, 820 N. FRENCH STREET, WILMINGTON, DELAWARE, 19801, pursuant to DEL. CODE ANN. tit. 10 § 3103(c). Additionally, the plaintiff has provided the Court with one copy of the complaint for each defendant.

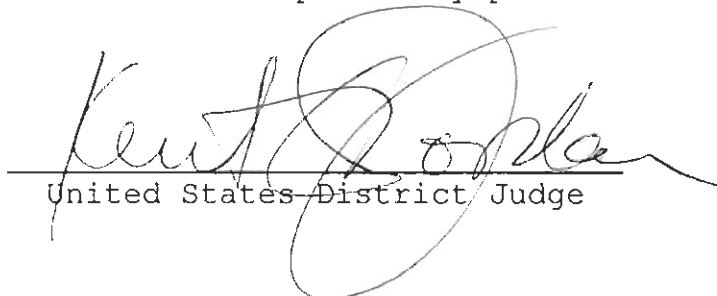
5. Upon receipt of the form(s) required by paragraph 5 above, the United States Marshal shall forthwith serve a copy of the amended complaint (D.I. 15), this order, a "Notice of Lawsuit" form, the filing fee order(s), and a "Return of Waiver" form upon each of the defendants so identified in each 285 form.

6. Within **thirty (30) days** from the date that the

"Notice of Lawsuit" and "Return of Waiver" forms are sent, if an executed "Waiver of Service of Summons" form has not been received from a defendant, the United States Marshal shall personally serve said defendant(s) pursuant to Fed. R. Civ. P. 4(c)(2) and said defendant(s) shall be required to bear the cost related to such service, unless good cause is shown for failure to sign and return the waiver.

7. Pursuant to Fed. R. Civ. P. 4(d)(3), a defendant who, before being served with process timely returns a waiver as requested, is required to answer or otherwise respond to the complaint within **sixty (60) days** from the date upon which the complaint, this order, the "Notice of Lawsuit" form, and the "Return of Waiver" form are sent. If a defendant responds by way of a motion, said motion shall be accompanied by a brief or a memorandum of points and authorities and any supporting affidavits.

8. No communication, including pleadings, briefs, statement of position, etc., will be considered by the Court in this civil action unless the documents reflect proof of service upon the parties or their counsel. The clerk is instructed not to accept any such document unless accompanied by proof of service.


United States District Judge

